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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,376	03/20/2001	Andrew P. Meurer	8480	1283

27752 7590 04/03/2006

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EXAMINER

FERNSTROM, KURT

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 04/03/2006

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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09/812 376

EXAMINER
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ART UNIT	PAPER
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033006

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Commissioner for Patents

See enclosed Examiner's Answer.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/812,376  
Filing Date: March 20, 2001  
Appellant(s): MEURER, ANDREW P.

**MAILED**  
**APR 03 2006**  
**Group 3700**

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Jay A. Krebs  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed July 8, 2005 appealing from the Office action mailed February 8, 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5950173	PERKOWSKI	9-1999
6,302,285	FULLE	10-2001

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art in view of Perkowski.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art, and further in view of Fulle.

These grounds of rejection are presented in the final rejection of February 8, 2005

**(10) Response to Argument**

With respect to the rejections under 35 USC 112, appellant asserts that the rejected terms would be understood to one of ordinary skill in the art. While one might understand generally what the terms might mean, the terminology does not give

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adequate notice as to the scope of what is being claimed, or what specific structural features are contemplated by the terminology. While an example of a “multipurpose customer interaction center” is given and described more fully in the specification, the feature as recited in the claims is so broad that it does not notify one of ordinary skill in the art as to what other types of structures might read on the claims; for example, whether a poster, pamphlet rack or even a cash register area might read on this limitation. Also, terms such as “area where customer can socialize”, “activity area for children” and public speaking accommodations” describe only the intended purpose of the area, rather than providing any structural limitations. The area in front of a patent examiner’s desk, or for that matter any open area within a retail establishment, is capable of being used as a socializing area, a children’s activity center or for public speaking. Appellant has not adequately defined the scope of what is intended by these claim limitations. Because the claim language does not adequately define the structural limitations of the invention, the rejections under 35 USC 112 are appropriate.

In the rejections under 35 USC 103, Official Notice was taken that many retail stores, including Barnes and Noble, contain partitioned sections therein with specialized merchandise. In the example of Barnes and Noble, partitioned sections for children’s books, music, magazines and so forth are known. Because applicant did not explicitly or implicitly traverse the taking of Official Notice, in either the response to the first Office Action or in the Appeal Brief, this is taken to be admitted prior art. See MPEP §2144.03 and *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

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In light of this admitted prior art, the claims are obvious. Contrary to appellant's arguments, the admitted prior art of Barnes and Noble as discussed above is not considered to be a partitioned section within a retail establishment "such as a grocery store, department store, supermarket, superstore or wholesale club" (Appeal Brief, p.7). Rather Barnes and Noble is a retail establishment, which sells retail merchandise, and has partitioned sections therein, as discussed above. With respect to the combination of the admitted prior art with Perkowski, Perkowski discloses a consumer interaction center comprising a computer having internet access, which is to be located within a retail establishment. Perkowski discloses, throughout its specification, the motivation for providing this device within a retail establishment, such as Barnes and Noble. Similarly, Fulle discloses merchandising fixtures on casters, to be located within a retail establishment, and discusses the motivation for providing such a device within a retail establishment. The remaining dependent claims are properly rejected for the reasons discussed in the final rejection.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully Submitted,



Kurt Fernstrom

**KURT FERNSTROM  
PRIMARY EXAMINER**

March 30, 2006

Conferees: Eugene Kim



Kien Nguyen

